

COUNCIL OF THE CITY OF ABERDEEN
Ordinance No. 16-O-02

Introduced By:	Mayor Patrick L. McGrady
Date Introduced:	February 22, 2016
Public Hearing:	March 14, 2016
Amendments Adopted:	March 28, 2016
Date Adopted:	March 28, 2016
Date Effective:	April 18, 2016

AN ORDINANCE concerning

TREES AND VEGETATION

1
2
3 **FOR** the purpose of requiring owners of land to maintain certain clearances and sight distances
4 between trees, bushes and other vegetation on their land and public roads; requiring owners of
5 land to remove or take other corrective action regarding certain dead or diseased trees; providing
6 for certain notices and rights of appeal to owners of land; providing that owners of land who do
7 not take certain required corrective action are guilty of a municipal infraction subject to certain
8 penalties; authorizing the City, under certain circumstances, to take corrective action if an owner
9 of land fails to do so, and providing that the City's costs of corrective action are chargeable to
10 the owner and a lien on the owner's land, bearing the same interest and collectible and
11 enforceable in the same manner as City real property taxes; and generally relating to trees and
12 other vegetation in the City of Aberdeen.

13
14 **BY** repealing and reenacting, with amendments, and renumbering
15 Chapter 250. ENVIRONMENTAL CONTROL
16 Article X, Enforcement, to be Article XI, Enforcement
17 Section 250-31 to be Section 250-33
18 Code of the City of Aberdeen (2010 Edition as amended)

19
20 **BY** adding
21 Chapter 250. ENVIRONMENTAL CONTROL
22 Article X, Trees and Vegetation
23 Sections 250-31 through Section 250-32, inclusive
24 Code of the City of Aberdeen (2010 Edition as amended)

1 ENVIRONMENTAL CONTROL, to be under the new Article X, Trees and Vegetation, to
2 follow immediately after Section 250-30 of Article IX and to read as follows:

3
4 **Chapter 250. ENVIRONMENTAL CONTROL**

5
6 **ARTICLE X, TREES AND VEGETATION**

7
8 § 250-31. RIGHT-OF-WAY CLEARANCES AND SIGHT DISTANCE.

9
10 A. THE OWNER OF LAND MAY NOT ALLOW A TREE, BUSH OR OTHER
11 VEGETATION GROWING ON AN OWNER'S PROPERTY TO EXTEND:

12
13 (1) BEYOND THE OWNER'S PROPERTY LINE ONTO A PUBLIC RIGHT-OF-
14 WAY OR ONTO A SIDEWALK THAT ABUTS A PUBLIC WAY.

15
16 (2) BEYOND THE OWNER'S PROPERTY LINE AT A HEIGHT LESS THAN 16
17 FEET ABOVE THE ESTABLISHED GRADE OF THE IMPROVED SURFACE
18 OF A PUBLIC RIGHT-OF-WAY.

19
20 (3) OVER A PUBLIC SIDEWALK LOCATED WITHIN A PUBLIC RIGHT-OF-
21 WAY AT A HEIGHT LESS THAN 10 FEET ABOVE THE ESTABLISHED
22 GRADE OF THE SIDEWALK.

23
24 (4) OVER A PUBLIC SIDEWALK LOCATED ON THE OWNER'S PROPERTY
25 AT A HEIGHT LESS THAN 10 FEET ABOVE THE ESTABLISHED GRADE
26 OF THE SIDEWALK.

27
28 B. THE OWNER OF A CORNER LOT ABUTTING A LOCAL ROAD THAT
29 INTERSECTS WITH ANOTHER LOCAL ROAD SHALL MAINTAIN A SIGHT
30 DISTANCE OF 25 FEET FROM THE INTERSECTION ALONG THE FRONTAGE
31 OF THE LOT. IN ORDER TO MAINTAIN THIS SIGHT DISTANCE THE LOT
32 OWNER MAY NOT PLANT, PLACE, MAINTAIN, OR ALLOW TO REMAIN,
33 WITHIN THE SIGHT TRIANGLE, AS DEFINED IN SECTION 235-7 OF THIS
34 CODE, ANY TREE, BUSH OR OTHER VEGETATION THAT IS MORE THAN
35 THREE FEET ABOVE THE ESTABLISHED GRADE OF THE ABUTTING STREET.

36
37 C. THE CITY ~~DIRECTOR OF PUBLIC WORKS~~ SHALL PROVIDE WRITTEN NOTICE
38 TO AN OWNER OF LAND THAT HAS A TREE, BUSH OR OTHER VEGETATION
39 THAT VIOLATES SUBSECTIONS A. OR B. OF THIS SECTION. THE NOTICE
40 SHALL ADVISE THE OWNER OF THE VIOLATION, THE CORRECTIVE ACTION
41 REQUIRED BY THE OWNER AND THE TIME TO COMPLETE THE CORRECTIVE
42 ACTION, THE REMEDIES AVAILABLE TO THE CITY UNDER SUBSECTION F.
43 IF THE OWNER DOES NOT COMPLY WITH THE CORRECTIVE ACTION
44 SPECIFIED IN THE NOTICE, AND THE OWNER'S RIGHT TO APPEAL THE
45 NOTICE AS SPECIFIED IN SUBSECTION E. OF THIS SECTION. THE ~~DIRECTOR~~ CITY

1 D. SHALL PROVIDE FOR DELIVERY OF THIS WRITTEN NOTICE BY HAND DELIVERY
2 TO THE OWNER OR BY FIRST CLASS MAIL, ~~POSTAGE PREPAID~~ AND CERTIFIED
3 MAIL WITH RETURN RECEIPT REQUESTED, ADDRESSED TO THE OWNER AT THE
4 ADDRESS TO WHICH THE CITY SENDS TAX BILLS FOR THE LAND AND TO THE
5 ADDRESS WHERE THE CITY SENDS WATER/SEWER UTILITY BILLS.
6

7 E. AN OWNER MAY APPEAL THE CITY'S NOTICE TO THE CITY MANAGER BY
8 FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY MANAGER WITHIN
9 ~~TEN~~ THIRTY DAYS AFTER THE DATE OF THE DIRECTOR'S NOTICE. THE
10 NOTICE OF APPEAL SHALL STATE THE REASONS WHY THE OWNER
11 CONTENTS THAT THE NOTICE WAS IMPROPER, UNAUTHORIZED OR
12 UNREASONABLE. THE CITY MANAGER SHALL CONDUCT A HEARING ON A
13 TIMELY APPEAL WITHIN TEN DAYS AFTER THE CITY MANAGER RECEIVES
14 THE NOTICE OF APPEAL. AT THE HEARING THE CITY MANAGER SHALL
15 RECEIVE EVIDENCE AND HEAR FROM THE DIRECTOR, THE OWNER OF THE
16 LAND, AND OTHER WITNESSES AS THE DIRECTOR AND OWNER PRESENT.
17 AFTER THE HEARING THE CITY MANAGER SHALL AFFIRM, MODIFY OR
18 REVERSE THE NOTICE OR TAKE OTHER ACTION AS THE CITY MANAGER
19 DETERMINES TO BE APPROPRIATE UNDER THE CIRCUMSTANCES. IF THE
20 CITY MANAGER'S DECISION REQUIRES THE OWNER TO TAKE CORRECTIVE
21 ACTION, THE DECISION SHALL SPECIFY THE TIME WITHIN WHICH THE
22 OWNER SHALL TAKE THE ACTION.
23

24 F. AN OWNER SHALL CORRECT A VIOLATION WITHIN THE TIME SPECIFIED IN
25 THE NOTICE OR IN A DECISION OF THE CITY MANAGER UPON A TIMELY
26 APPEAL OF THE NOTICE BY THE OWNER. AN OWNER WHO DOES NOT TAKE
27 TIMELY CORRECTIVE ACTION IS GUILTY OF A MUNICIPAL INFRACTION
28 AND IS SUBJECT TO THE PENALTY SET FORTH IN SECTION 250-33.B.
29

30 G. IF THE OWNER DOES NOT TAKE TIMELY CORRECTIVE ACTION IN ACCORDANCE
31 WITH SUBSECTION E. OF THIS SECTION, THE CITY MAY CORRECT THE VIOLATION
32 AND ALL COSTS INCURRED BY THE CITY SHALL BE THE PERSONAL OBLIGATION
33 OF THE OWNER OF THE LAND AND SHALL BE A LIEN ON THE OWNER'S LAND,
34 ~~BEAR THE SAME INTEREST~~, HAVE THE SAME PRIORITY, AND BE ENFORCEABLE
35 AND COLLECTIBLE, IN THE SAME MANNER AS CITY REAL PROPERTY TAXES,
36 EXCEPT THE LAND MAY NOT BE SOLD AT TAX SALE TO SATISFY THE LIEN.
37

38 § 250-32. DEAD OR DISEASED TREES.
39

40 A. AN OWNER OF LAND SHALL NOT ALLOW A TREE TO REMAIN ON THE LAND
41 IF, IN THE DETERMINATION OF THE CITY DIRECTOR OF PUBLIC WORKS,
42 THE TREE IS DEAD OR DISEASED AND, UNLESS REMEDIAL ACTION IS
43 TAKEN, THE TREE POSES A REASONABLE LIKELIHOOD OF DAMAGE OR
44 INJURY TO PERSONS OR PROPERTY BEYOND THE BOUNDARIES OF THE
45 OWNER'S LAND.

- 1 B. THE DIRECTOR OF PUBLIC WORKS SHALL DETERMINE WHETHER A TREE
2 SATISFIES THE CRITERIA IN SUBSECTION A. OF THIS SECTION BY VISUAL
3 INSPECTION AND EVALUATION BY THE DIRECTOR AND BY ONE OR MORE
4 INDIVIDUALS WHO HAVE EXPERTISE IN EVALUATING THE CONDITION OF
5 DEAD AND DISEASED TREES.
6
- 7 C. IF THE DIRECTOR DETERMINES THAT A TREE SATISFIES THE CRITERIA IN
8 SUBSECTION A. OF THIS SECTION, THE DIRECTOR SHALL PROVIDE
9 WRITTEN NOTICE TO THE OWNER THAT THE TREE SATISFIES THE
10 CRITERIA OF SUBSECTION A. THE NOTICE SHALL ADVISE THE OWNER OF
11 THE CORRECTIVE ACTION REQUIRED BY THE OWNER AND THE TIME TO
12 COMPLETE THE CORRECTIVE ACTION, THE REMEDIES AVAILABLE TO THE
13 CITY UNDER SUBSECTION F. IF THE OWNER DOES NOT COMPLY WITH THE
14 CORRECTIVE ACTION SPECIFIED IN THE NOTICE, AND THE OWNER'S RIGHT
15 TO APPEAL THE NOTICE AS SPECIFIED IN SUBSECTION D. OF THIS SECTION.
16 THE DIRECTOR SHALL PROVIDE FOR DELIVERY OF THIS WRITTEN NOTICE
17 BY HAND DELIVERY TO THE OWNER OR BY FIRST CLASS MAIL, ~~POSTAGE~~
18 ~~PREPAID,~~ AND BY CERTIFIED RETURN-RECEIPT MAIL, ADDRESSED TO THE OWNER AT THE
19 ADDRESS TO WHICH THE CITY SENDS TAX BILLS FOR THE LAND.
20
- 21 D. UNLESS THE DIRECTOR DETERMINES THAT IMMEDIATE CORRECTIVE
22 ACTION IS NECESSARY TO PREVENT AN IMMINENT DANGER TO PERSONS
23 OR PROPERTY BEYOND THE BOUNDARIES OF THE OWNER'S LAND, AN
24 OWNER MAY APPEAL THE DIRECTOR'S NOTICE TO THE CITY MANAGER BY
25 FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY MANAGER WITHIN
26 ~~TEN~~ THIRTY DAYS AFTER THE DATE OF THE DIRECTOR'S NOTICE. IF THE
27 DIRECTOR DETERMINES THAT IMMEDIATE CORRECTIVE ACTION IS
28 REQUIRED, THE OWNER MAY FILE A WRITTEN NOTICE OF APPEAL WITH
29 THE CITY MANAGER WITHIN ONE BUSINESS DAY AFTER THE DATE OF THE
30 NOTICE. THE NOTICE OF APPEAL SHALL STATE THE REASONS WHY THE
31 OWNER CONTENDS THAT THE NOTICE WAS IMPROPER, UNAUTHORIZED
32 OR UNREASONABLE. THE CITY MANAGER SHALL CONDUCT A HEARING
33 ON A TIMELY APPEAL WITHIN TEN DAYS, OR WITHIN ONE BUSINESS DAY
34 IF IMMEDIATE CORRECTIVE ACTION IS REQUIRED, AFTER THE CITY
35 MANAGER RECEIVES THE NOTICE OF APPEAL. AT THE HEARING THE CITY
36 MANAGER SHALL RECEIVE EVIDENCE AND HEAR FROM THE DIRECTOR,
37 THE OWNER OF THE LAND, AND OTHER WITNESSES AS THE DIRECTOR AND
38 OWNER PRESENT. AFTER THE HEARING THE CITY MANAGER SHALL
39 AFFIRM, MODIFY OR REVERSE THE NOTICE OR TAKE OTHER ACTION AS
40 THE CITY MANAGER DETERMINES TO BE APPROPRIATE UNDER THE
41 CIRCUMSTANCES. IF THE CITY MANAGER'S DECISION REQUIRES THE
42 OWNER TO TAKE CORRECTIVE ACTION, THE DECISION SHALL SPECIFY THE
43 TIME WITHIN WHICH THE OWNER SHALL TAKE THE ACTION.
44

1 E. AN OWNER SHALL CORRECT A VIOLATION WITHIN THE TIME SPECIFIED IN
2 THE NOTICE OR IN A DECISION OF THE CITY MANAGER UPON A TIMELY
3 APPEAL OF THE NOTICE BY THE OWNER. AN OWNER WHO DOES NOT TAKE
4 TIMELY CORRECTIVE ACTION IS GUILTY OF A MUNICIPAL INFRACTION
5 AND IS SUBJECT TO THE PENALTY SET FORTH IN SECTION 250-33.B.

6
7 F. IF THE OWNER DOES NOT TIMELY CORRECT A VIOLATION AFTER WRITTEN
8 NOTICE IN ACCORDANCE WITH SUBSECTION E. OF THIS SECTION, THE CITY
9 MAY CORRECT THE VIOLATION AND ALL COSTS INCURRED BY THE CITY
10 SHALL BE THE PERSONAL OBLIGATION OF THE OWNER OF THE LAND AND
11 SHALL BE A LIEN ON THE OWNER'S LAND, ~~BEAR THE SAME INTEREST,~~
12 HAVE THE SAME PRIORITY, AND BE ENFORCEABLE AND COLLECTIBLE, IN
13 THE SAME MANNER AS CITY REAL PROPERTY TAXES, EXCEPT THE LAND
14 MAY NOT BE SOLD AT TAX SALE TO SATISFY THE LIEN.

15
16 **SECTION 3. BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY**
17 **OF ABERDEEN,** that this Ordinance shall become effective at the expiration of twenty (20)
18 calendar days following adoption.

COUNCIL OF THE CITY OF ABERDEEN

Patrick L. McGrady, Mayor

Sandra J. Landbeck, Councilwoman

Timothy W. Lindecamp, Councilman

Melvin T. Taylor, Councilman

Vacant

ATTEST:

SEAL:

Monica A. Correll, City Clerk

Date _____